DOCUMENT RESUME

ED 108 220 CS 202 105

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TITLE Composition for the Pre-Professional: Focus on Legal Writing.
PUB DATE Mar 75
NOTE 14p.; Paper presented at the Annual Meeting of the Conference on College Composition and Communication (26th, St. Louis, March 13-15, 1975)

EDRS PRICE MF-$0.76 HC-$1.58 PLUS POSTAGE
DESCRIPTORS *Composition (Literary); *English Instruction; Higher Education; Law Instruction; Professional Education; *Professional Occupations; Teacher Role; Technical Writing

ABSTRACT

Writing courses for preprofessional students focus on the fundamentals of grammar, spelling, and syntax for students majoring in one of the professional fields and can provide students with subject matter for writing and an opportunity to examine and practice the stylistic conventions of their particular fields of interest. Both the English department and the instructors must participate actively in preparing such courses, as may be seen by examining the way in which a legal writing course is conceived and prepared. These courses benefit both instructors, who have opportunities to reevaluate methods, and students, who learn skills directly related to career goals. (JM)

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Composition for the Pre-Professional:

Focus on Legal Writing

John O. White and Norman Brand

Specialized writing courses are nothing startlingly new to English Departments. In fact many faculty members may cringe, fearing a return to an earlier conception of English Departments as providers of "services" to other departments on campus. But, viewed a little more optimistically, these courses could be the culmination of several recent trends in higher education which bode well for those of us who are interested in teaching writing. Pre-professional writing courses reflect the desire of students for more "practical" courses which they feel will help them succeed in their professional field. Furthermore, the particular pre-professional writing courses which are offered in a department are the result of the interest students have expressed in a particular professional area. In this article we shall attempt to describe what these courses are, what success they have had, and how both the department and the individual teacher can prepare to teach such courses.

To begin with, writing courses for the pre-professional are not radical departures from what many of us are accustomed to teaching. In spite of the specialized labels, these courses do not rely on an instructor teaching the substance of what is taught in engineering, medical, business, or law schools. Nor are they Freshman English in disguise, being simply courses in the fundamentals of grammar, spelling, and syntax for students who have declared majors in one of the "professional" fields. Rather, they are an attempt to provide a subject for writing courses--other than writing itself--while providing pre-professional students with an opportunity to examine and practice the stylistic conventions of the field they are interested in. We

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all know that when students are interested in a subject their writing improves. By giving students the opportunity to select a pre-professional course, we can be assured of a motivated group, interested in a single area, ready to join with the teacher in practicing those matters of organization, syntax, and style that are crucial to all good writing.

To illustrate the diversity of courses which can be offered under this rubric, and the success which can attend such offerings, the experience at UC Davis may be instructive. During the Spring 1975 quarter, UC Davis will offer advanced composition courses in Legal Writing, Business Report Writing, Writing for Magazines, and Technical Writing--as well as several "general" courses in advanced composition. In the past, a course in Medical Writing, as well as one in what might be called "Writing as Self-Discovery" have been offered. The student response to these courses, if the response to the Legal Writing class is any indication, has been enthusiastic. The range of specialized writing courses that a department can offer is limited only by the range of interests of the faculty members in that department. However, for the department interested in expanding its course offerings in this area there are three basic problems to be resolved: faculty abilities, student interests, and information.

Anyone who has taught in an English Department knows that the abilities of the average faculty member are not limited solely to teaching literature. Indeed, many of us have had significant experience in other fields prior to beginning teaching. Once a decision has been made to expand the advanced composition curriculum to specialized fields, the next step is to survey the faculty in order to discover what fields various faculty members are interested in exploring. As will become apparent from our description of the way an

English professor prepared himself to teach legal writing, extensive expertise in the area is not a prerequisite to teaching such a course. A basic but not necessarily extensive familiarity with the area, coupled with the cooperation of faculty members in other disciplines, are all that is necessary for a faculty member to prepare a pre-professional writing class.

However, the Department must also take an active part in the preparation of these new courses. The most important job that the Department has is to survey student opinion and determine what kinds of courses would be most welcome. This can be done both with the formal survey and through the informal mechanism of monitoring what areas are popular among students who have recently graduated. For instance, the increase in law school applications over the past few years were a sure sign that there would be significant student interest in a writing course that dealt with argumentative writing in a legal context. According to a recent Wall Street Journal article, engineering graduates are very much in demand by businesses. This should mean that courses in technical writing for engineering students would be most welcome.

But the task of the Department doesn't end with determining what seem to be the courses which would be best attended; there is the further problem of information. Students must have some idea, well in advance of the time that they are required to register, of what a specialized course for the pre-professional will offer. Advisers, too, must know what the content of these special courses will be so that they can recommend them to students. This can best be accomplished through having the individual instructor prepare a one-page course description indicating the intent, extent, methodology, texts, and expectations of the course he or she is planning to teach.

Thus far we have dealt only in general terms with what needs to be done in preparing to teach a writing course for the pre-professional. But there's quite a distance between a departmental decision to teach pre-professional courses and the preparation that an individual faculty member must make. In that vein it might be useful to examine the way how a specific course--Legal Writing--was initially conceived and prepared.

A composition teacher without a background in law might understandably be wary of trying to offer a course in legal writing even for the undergraduate who also has no legal training. Actually, however, with a little help, a very useful legal writing course can be prepared and taught by any instructor who understands and can teach the elements of general persuasive prose; i.e. if anyone can manage to teach composition, he or she can also manage to teach writing for a pre-professional. It is important to recognize, though, that while legal writing is not so different from any other kind of writing as to confound the potential instructor, there are some differences which have to be acknowledged, and there are problems and materials peculiar to legal writing which need to be identified.

What is legal writing? For many people--maybe most--just the term "legal writing" conjures up a vision of thousands of incomprehensible words printed in minuscule type in some apparently foreign and certainly esoteric tongue. Those who have ever had to try to figure out whether their insurance covered some highly improbably accident, or whether the warranty allowed or disallowed the particular fault in the family car know the kind of language usually associated with lawyers.

A class in legal writing, however, does not have as its subject the rhetoric of evasion or obfuscation. Most of the writing a lawyer does is

intended to make an issue clear, not obscure. A potential law student should be taught to write so that even a layman might understand the issue, the reasoning, and the conclusion in any paper. An emphasis on clarity of expression, then, is the major focus of a class in legal writing just as it is in any other composition class.

The premise an instructor can start with is that pre-law students will be interested in doing well in law school, and that success in law school depends very much on a student's language and writing abilities. The law student has to be able to apply the rules of law to a hypothetical fact situation and arrive at a logical conclusion, all in a limited amount of time. Law students will also be expected to write legal memoranda, which are researched discussions of hypothetical and complex fact situations, and briefs, in which they argue a certain position for or against a plaintiff or defendant. However, writing a law exam will be a major concern in any legal writing class.

Basically, the kind of writing required for all of these assignments is just a variation of the principles of persuasive prose. The skill to write law examinations, memoranda and briefs, then, since the basics are not peculiar to law, can be taught, and can be taught even by those who are not lawyers. All that is required is an understanding of these principles and some, but not extensive, knowledge of the nature of legal writing, combined with law school-like materials. So for instructors who want to teach such a class, while they cannot simply teach it as a kind of freshman English for bright students, they can teach it based on their present understanding of writing.

The emphasis in legal writing, just as in all composition, is on

organization, development, logical flow, and clarity of style. Generally most pre-law students don't have major problems in grammar, though they may fear that they have. They'll come into the writing class bemoaning the fact that somewhere back in fourth grade they lost all hope for success by somehow missing out on the basics of grammar. They think if they only knew the secrets of participles and gerunds they would magically be able to construct incisive and impressive compositions. However pre-law students usually have the basic language ability, and the problem is not to teach them to apply technical terms to their writing, but to direct and structure their present language ability for the requirements of law school.

Composition instructors can start, then, with their normal approaches to writing, using first assignments which are not law questions, but instead just essays dealing with legal issues. A sample assignment is one on the Equal Rights Amendment to the Constitution.

This is the text of a proposed Constitutional amendment:

> "Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."
> "Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."
> "Section 3. This amendment shall take effect two years after the date of ratification."

These are some of the statements made about this amendment in a Congressional hearing:

1. The Constitution itself makes no distinction between men and women.
2. Women are emotional and expressive and lack the strength, intelligence, and ambition for high level jobs.
3. Forty percent of the work force is made up of women. Eighty percent of these women are heads of households.
4. In a technological society most high level jobs do not require physical strength.
5. Women are "short-term" workers who do not justify a large expenditure in time and money by employers.

6. Many male workers who have to support families might be displaced by females.
7. Due to technological and social changes in society, the burdens of child bearing and rearing no longer present insurmountable obstacles to women who want to pursue careers.
8. There are many jobs for which women are physically unsuited and an equal number of jobs for which men are unsuited.

Write a coherent, well organized argument for or against the passage of this amendment as it is written. Be sure to provide adequate support for any generalizations you make. I am not so much interested in your position as in your ability to argue a specific issue.

Other law related questions might be concerned with whether eighteen year olds should be allowed to drink (still a current topic in California), or whether a state lottery or legalized dog racing should be allowed. The composition instructor can show the students how to establish a thesis statement and how to develop logical arguments to support that thesis. He or she can show how each idea would rate a separate paragraph and how the entire essay can lead to the desired conclusion.

After these basics are established, a quasi-legal assignment can be used. A hypothetical fact situation can be given and the student asked to apply arbitrary principles of law which are included in the assignment. These are the kinds of questions given on the Law School Aptitude Test, and require no legal knowledge, just a logical application of rules.

Red Dickulus, a Los Angeles resident, and his girlfriend, Sue Blime, also a Los Angeles resident, decide to drive to Las Vegas for the weekend in Red's new Cadillac. They stop in Barstow, pick up a bottle of Old Tennis Shoe Rye Whiskey, and proceed to drink and drive on their way. As they travel at high speed in their erratic trip across the Nevada desert, Sue, a little drunk, decides her aim might be better than Red's, and playfully grabs the steering wheel. Red, startled, pulls back on the steering wheel. The car swerves sharply, the left front wheel comes off, and the Cadillac crashes into a cactus, injuring both Red and Sue.

1. According to Nevada and California law, suits resulting from this accident may be brought in either state.

2. Both California and Nevada hold drinking while driving to be negligent.
3. Under Nevada law, a driver has no liability to his passengers.
4. California makes contributory negligence a full defense to any action. Nevada law does not.
5. Both states stipulate that a manufacturer is liable for any defective parts.

These principles may be either real or imaginary, but for purposes of this assignment you are to assume them to be valid.

Discuss all possible causes of action for all parties concerned.

These kinds of questions can be drawn from old LSAT exams or can be made up with a little imagination.

Answering a question of this sort requires a few modifications of the general principles. The thesis sentence no longer states a position, but instead outlines and establishes the issues or legal problems. This kind of thesis allows the writer to use the strategy of appearing to consider and discuss the issues before arriving at any conclusions. But the principles of organization and development are still the same. Separate issues need separate paragraphs, but each one needs to be a complete argument in itself. And the paragraphs still have to lead logically to a conclusion.

It is also possible to call upon colleagues in other disciplines to create writing assignments. One might ask a law professor to create a factual situation which would require the application of a fairly simple legal principle or a readily available statute. The statute could be reproduced for the students and they could be asked to argue either the plaintiff's or the defendant's case, using only the law that is found in the statute or rule they are given.

For instance, we used the following factual situation for a writing exercise:

Fred was burglarizing a house when he heard some noises upstairs.

He grabbed a poker from the fireplace and hid himself behind a curtain. Looking up at the stairs he saw someone's foot at the top step. "Don't take another step," he shouted. "If you come down here I'll kill you." The person at the top of the steps froze, and Fred slipped out of the window. Fred has been captured by the police.

Assume that you have been told these facts by the boss, the District Attorney, and that he has asked you to write him a brief essay in which you tell him whether to charge first or second degree burglary. He will be out of town while you are writing this memo, so you will have to give him alternative courses of action if you don't have enough facts. You may also assume that the following statutes are in effect in your jurisdiction.

Section 460. Degrees
Every burglary of an inhabited dwelling-house committed in the nighttime, and every burglary, whether in the daytime or nighttime, committed by a person armed with a deadly weapon, or who while in the commission of such burglary arms himself with a deadly weapon, or who while in the commission of such burglary assaults any person, is burglary of the first degree.
All other kinds of burglary are of the second degree.

Section 240. Assault
An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

The teacher, then, is not required to know any more law than the student, but only to evaluate the student's argumentative ability.

Finally, even in a pre-law course, the instructor and the students can develop an understanding of one small and self-contained area of law, such as intentional torts--assault, battery, false imprisonment, etc.--and assign real law exams.

Mr. Kent Sea, an avid astronomer, was watching a solar eclipse without any protection for his eyes. As a result, he became totally blind. To facilitate his normal routine, Mr. Kent Sea undertook a prescribed course on how to use a seeing eye dog. After successful completion of the course he was given a dog named Blue.

While taking his daily walk through Central Park, Mr. Kent Sea noticed that Blue was getting excited. Blue stopped and started growling. Mr. Kent Sea became worried. Two thugs, Crummy and Nasty, were standing there. They spoke harshly to Kent. Then,

for a practical joke, Crummy grabbed the leash from Kent and ran off with Blue.

Kent wandered home, tripping and falling once or twice. Having arrived home, Kent found that Blue was there. Although happy to be with Blue again, Kent comes to your law firm, seeking recovery from the two thugs. He speaks to Mr. Knowit, your senior partner. He tells Mr. Knowit that he desires to institute a law suit against Crummy and Nasty.

You are a junior partner in the firm. Mr. Knowit relays the above facts to you and wants you to write a memorandum reviewing all the issues, recommending any possible legal action, and discussing possible outcomes (use only the law as found in the cases you have read).

This is very similar to the quasi-legal exam except the rules of law are genuine principles and are not stated in the question.

Learning the law would be a little difficult, though, unless there were a nearby law school with a friendly torts instructor. However some materials could be developed from law books. Also we have a textbook on legal writing in preparation which includes, along with quasi-legal assignments, a section on intentional torts for the pre-law student--and instructor (Legal Writing: The Strategy of Persuasion, St. Martin's Press, will be available early in 1976). But any of these law questions, real or imaginary, will allow the instructor to give writing instruction in the most practical, direct, and interesting way to pre-law students.

Besides modifying and applying the general principles of composition, the instructor needs to be aware of several writing problems particularly common in legal writing. One especially obvious one is a problem of style. Students interested in the law immediately want to write the way they think lawyers write. They want to sound impressive, profound, and complex, but in doing their own inimitable impressions of legal writing they too often end up with language which is either vague, cautious, and mystifying, or

inflated, awkward, and misleading. Consider this sentence: "Due to the deceased's many elongated affairs, the problems of heredity become complex." The "elongated" provides a nice Freudian touch, but the student meant "prolonged," and "inheritance" instead of "heredity." While the sentence sounded very important and "legal" to the writer, the result was only unclear. Pre-law students can also manage to make fairly simple statements sound very complex.

> The issues which this tort case pose can result in significant differences regarding the legal distribution of liability among all involved parties depending upon the state in which legal action is brought and, accordingly, the law which is applied, ultimately.

Even though this student hadn't said very much, when asked to read it back, he read it admiringly, and smiled a proud smile.

Instructors have to be alert to inflation in all its forms, as well as to the normal and predictable errors to be found in paragraph development and sentence structure in teaching legal writing. But there is one further effort they should make, and that is to convert their materials on paragraph development or sentence structure or grammar to legal language. It is important to avoid the appearance of Freshman English. At that first mention of "dangling modifier" the heads will nod. But legal sounding material will give new--or maybe just disguised--life to old presentations.

It is relatively simple to construct exercises which are aimed at building a useful writing skill but which also appears to be related to the subject matter of the course. For instance, in designing exercises on parallelism in a Legal Writing course we simply looked at the form of exercises in various standard texts, noting the different types of non-parallel structure, and then filled these forms with legal terms. Thus, one of our examples

read: "The First Amendment of the Constitution protects freedom of speech, freedom of assembly, and the press is required to be unfettered." It requires no more than a layman's knowledge of law to construct a sentence of this sort, but for the student in the pre-professional writing class this sort of exercise provides reassurance that the course is something specially designed for his or her area of professional interest.

As with other writing courses, the most fruitful area for mining examples of glaring writing errors is the weekly student paper. While reading through these it is simple to note the most egregious errors and incorporate them into later exercises. For instance, a wonderful example of inflated diction sprang full grown from an otherwise innocuous student paper on the Equal Rights Amendment. This student wrote: "Sex in our technocratic society is epiphenomenal as a quality of employment." These student sentences also have the advantage of credibility. Inflated diction exists. By noting all of the weekly errors that students make teachers can accomplish two goals. First, they can use these choice bits of prose to furnish a chamber of horrors to be handed out and worked on as a classroom editing exercise. Second, they can develop a frequency distribution chart of errors in their particular pre-professional area that will be useful in structuring future class sessions and future courses in the subject. Furthermore, we have used this method to insure flexibility in the writing class through allowing the student errors which appear most frequently in a given week to determine what areas of style will be discussed during the following week.

Indeed, letting student needs dictate the structure and content is central to teaching a writing course for the pre-professional. More than

many other courses, the pre-professional writing class is a joint venture in which the instructor brings the expertise born of experience in teaching writing classes to bear upon subject matter that students decide is important to them. In many respects this is a difficult enterprise, since both the student and instructor learn by going where they have to go. But that's precisely what makes these courses so worthwhile. The instructor has the opportunity to take a fresh look at methods; the student has the chance to learn skills that are directly related to career goals. And, in our experience, both parties bring an enthusiasm and willingness to learn that makes the pre-professional writing class an exciting place to be.

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